

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill creates a study commission to study costal hospitals that sustained significant damage to their facilities during the 2004 hurricane season. The commission will be funded through existing agency funds.

Maintain Public Security – The outcome of the study may increase the quality and availability of hospital services in emergency situations.

B. EFFECT OF PROPOSED CHANGES:

HB 1125 addresses the severe damage many Florida hospitals faced during the 2004 hurricane season.

The bill creates a study commission to address critical issues relating to licensed hospitals that serve indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season.

The commission must identify:

- All hospitals that are currently not able to comply with the provisions of the Florida Building Code as defined in s. 553, F.S., and any associated administrative rules;
- Hospitals that are located within 10 miles of the coastline; and
- Hospitals that are located in a designated flood zone.

The study commission must make recommendations for allowing these hospitals to find alternative methods of renovating their existing facilities in order to meet the requirements of the Florida Building Code (FBC), including an evaluation of whether any hospital located in a county that experienced, or may experience, significant hurricane damage should be exempt from the Certificate of Need (CON) process for the purpose of relocating its currently licensed beds to a facility that is not located on the main hospital campus.

The bill requires the commission to review and determine whether hospitals located within 10 miles of the coastline or in a designated flood zone should be allowed to have satellite beds for use in the future.

The commission must meet by September 1, 2005, and shall submit recommendations, including recommendations for statutory changes, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006. Such recommendations shall also include an evaluation of whether grant funds should be made available to assist hospitals with the cost of reconstructing existing facilities.

The study commission must be staffed by the Department of Community Affairs and shall include:

- The Secretary of Community Affairs, or his or her designee;
- The Director of the Division of Emergency Management, or his or her designee;
- The Secretary of Health Care Administration, or his or her designee;
- The Secretary of Health, or his or her designee; and
- A director of county emergency management, selected by the Florida Association of Counties.

Members of the study commission will serve without remuneration, but are entitled to reimbursement in accordance with s. 112.061, F.S., for per diem and travel expenses incurred in performing their duties in accordance with this section.

The bill creates one unnumbered section of law.

HB 1127 will take effect upon becoming a law.

BACKGROUND

The Hurricane Season of 2004

Every county in Florida was affected by a hurricane or tropical storm, or was under a declared state of emergency because of such storms, in 2004. Counties in the South Central part of the state suffered direct hits from three hurricanes, and two coastal Panhandle counties received extensive damage from a direct hit of a powerful hurricane accompanied by surge.

A survey by the Florida Hospital Association (FHA) showed 70 hospitals experienced damages from the four hurricanes—Charley (August 13, 2004); Frances (September 5, 2004); Ivan (September 16, 2004); and Jeanne (September 25, 2004). Of these 70 hospitals, 23 had damage from two storms and 11 facilities were damaged by three of the storms.²

Hospitals reported significant damages to roofs, buildings, windows, equipment, and damages from flooding. Damages to hospital roofs totaled approximately \$15 million. Damages to the building, excluding the roof, totaled \$8.8 million. Water damage, caused by flooding and water intrusion, was estimated to cost \$5.2 million. Damages to equipment, windows and other facility damages totaled \$5.4 million. Other damages totaled \$4.9 million, including debris removal, damage to signage, landscaping, fencing, screens, canopies and awnings, and damage to compressors.³

At the time of the FHA survey, many hospitals were still negotiating with their insurance companies on the damages and the amounts that would be covered. Thus, accurate damage estimates and insurance reimbursements were not available at the time of the survey. Based on data from about half of the participating hospitals, FHA estimated that approximately 45 percent of the repair cost would be covered by insurance.

The Certificate-of-Need Process

The CON regulatory process under Chapter 408, F.S., requires that before specified health care services and facilities may be offered to the public they must be approved by the Agency for Health Care Administration (AHCA). Section 408.036, F.S., delineates which health care projects are subject to review. Subsection (1) of that section lists the projects that are subject to full comparative review in batching cycles by AHCA against specified criteria. Subsection (2) lists the kinds of projects that can undergo an expedited review. These include: research, education, and training programs; shared services contracts or projects; a transfer of a certificate of need; certain increases in nursing home beds; replacement of a health care facility when the proposed project site is located in the same district and within a 1-mile radius of the replaced facility; and certain conversions of hospital mental health services beds to acute care beds. Subsection (3) lists projects that may be exempt from full comparative review upon request. The construction of a satellite facility for a hospital is currently subject to CON review.

Hospitals Serving Indigent Populations

Rule 59C-1.030, F.A.C., sets forth the health care access criteria to be used in the review of a CON application. These criteria include the extent to which all residents of the district, and in particular low income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly, are likely to have access to the facility's services and the extent to which Medicare, Medicaid and medically indigent patients are served by the applicant. In any case where it is determined that an approved project does not satisfy the health care access criteria, AHCA may, if it approves the application, impose the condition that the applicant must take affirmative steps to meet those criteria. While all hospitals are required to serve indigent patients, some serve far more than others because of their location.

² Eye of the Storm: Impact of the 2004 Hurricane Season on Florida Hospitals, March 2005, Florida Hospital Association.

³ Eye of the Storm: Impact of the 2004 Hurricane Season on Florida Hospitals, March 2005, Florida Hospital Association.

The Florida Building Code (FBC)

Part four of chapter 553, F.S., creates the Florida Building Commission and requires the commission to adopt by rule the Florida Building Code (FBC). Under s. 553.73, F.S, the FBC must contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in that section. Existing hospitals are required, to comply with the building code under which they were constructed. Only new facilities and renovations or additions to existing facilities must meet the current requirements of the FBC.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law to form a commission to study coastal hospitals that served indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season.

Section 2. Provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comment below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

No funding is appropriated in the bill for the study commission. Travel expenses and per diem for members appointed from the Department of Community Affairs, Agency for Health Care Administration, Division of Emergency Management, Department of Health and a direct of county emergency management would have to come from their expense budgets.

AHCA estimates travel costs for the Secretary of Health Care Administration or his designee to take part in the study commission at \$3,105. This would include \$621 per meetings (\$21 meal allowance, \$100 hotel, and \$500 for travel) time an estimated five meetings. AHCA will handle the additional cost within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

HB 1127 requires the commission to recommend whether hospitals located within 10 miles of the coastline should be allowed to have satellite beds for use in the future. Use of such satellite beds as alternative hospital beds for acute care patients would require that the beds meet a standard that would involve substantial and costly construction. According to AHCA, such beds would be a costly and infrequently-used alternative if they remain vacant, or would be unavailable for relocation of acute care patients if they were not vacant.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES